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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,686	12/03/2001	Adriano Huber	216597US2PCT	9492
22850	7590	04/07/2006		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER BAYAT, BRADLEY B	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/926,686	Applicant(s) HUBER ET AL.	
	Examiner Bradley B. Bayat	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

Applicant's amendment filed on January 20, 2006 is entered as follows:

- Claims 1-4, 7, 8, 10, 13, 16-19 and 20 were previously amended.
- Claims 23 and 24 were previously canceled.
- Claims 1-22 remain pending.

Response to Arguments

Applicant contends that Zhao does not teach transmitting data on a time determined by the center with regard to optimal usage of resources used for transmission of ordered media objects (response p. 4). Applicant indicates that in Zhao the server determines time of delivery whereas in applicant's invention the "center" determines to transmit at an optimal time. Thereafter, applicant argues that in Zhao the "time of initiating streaming is intended to start immediately after the request" and therefore fails to teach the claimed subject matter (response p. 4-5).

The examiner respectfully disagrees. The main feature of the Zhao reference is mechanisms for scheduling a time of transfer of media objects in order optimize efficient bandwidth usage (see pp. 13-14). If in fact media objects were sent immediately, Zhao would not accomplish usage resource optimization. In fact, the scheduler, as pointed out by applicant accomplishes such a task. Furthermore, applicant's distinction between a center and the server does not distinguish the claimed invention from the references at hand.

Applicant also argues that Zhao is directed to streaming media objects, whereas applicant's invention is not intended for streaming media. The examiner notes that the language of the claim does not make such a distinction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al. (hereinafter Downs), U.S. Patent 6,226,618 B1 in view of publication by Zhao and Tripathi (hereinafter Zhao), titled *Bandwidth-Efficient Continuous Media Streaming Through Optimal Multiplexing*, pp.13-22, published May 1999.

As per claim 1, Downs discloses a method for ordering and transmitting of digital objects comprising: transmitting an object order for digital media objects that comprises at least one object identification (figure 1b, 1d, 2 and associated text), transmitting data on a time at which an ordered media object is available by the center to any communications terminal, wherein the time is determined by the center and is stored in the communications terminal (column 6, line 35-column 8, line 54; column 40, lines 53-67; column 46, lines 10-61), automatically contacting, by the communications terminal the center at the stored time (column 58, lines 1-column 59, line 48), transmitting a media object assigned to the object identification by the center via a radio network to the communications terminal where it is stored in a memory and playing back, by a media playback module of the communications terminal, a media content contained in the stored

Art Unit: 3621

media object (figures 1A-D; columns 6-8; figures 12, 13 and associated text). Downs does not explicitly disclose transmission of media objects at a time for optimal usage of resources. Zhao, however, teaches an efficient optimal resource usage technique that exploits both temporal and smoothing spatial multiplexing for optimal usage of resources during transmission of media objects (pp.13-14, 16-17, 20-22). It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Downs' media transmission technique and combine Zhao's optimal data multiplexing technique in order to provide content during optimal transmission times to accommodate the growing use of bandwidth for transmission of media objects and prevent bottlenecks and promote efficiency of data transfer, as per teaching of Zhao.

As per claim 2, Downs further discloses the method of claim 1, wherein prior to transmission to the communications terminal, the media content of the media object is encrypted with a first key, assigned to said media object, and the media content is decrypted by said first key prior to playback through the media playback module (figures 3-4 and associated text).

As per claim 3, Downs further discloses the method of claim 2 wherein media objects stored in a first said communication terminal are selected by the user of said first communications terminal and are transmitted to a second communications terminal, the media content of these media objects remaining encrypted (figure 1D and associated text; col. 12-14).

As per claim 4, Downs further discloses the method of claim 2, wherein the first key assigned to the media object, is transmitted encrypted, encrypted by a public second key, to the

Art Unit: 3621

respective communications terminal and is decrypted in the respective communications terminal by a private third key, the pair of keys, of the public second key and the private third key, being assigned to the user of the respective communications terminal (figure 6 and associated text; col. 37-39, 44-46).

As per claim 5, Downs further discloses the method of claim 4, wherein data about conditions of use for the media object are also sent to the communications terminal separately or together with the first key assigned to this media object (figure 6 and associated text).

As per claim 6, Downs further discloses the method of claim 4, wherein for decryption of the media content of the media object, the decrypted first key assigned to this media object is transmitted in a protected way to a decryption module of the communications terminal (columns 12-14).

As per claim 7, Downs further discloses the method of claim 1, wherein the media objects include in each case indications about the center where the respective media object can be obtained (figure 1B and associated text).

As per claim 8, Downs further discloses the method of claim 2, wherein the media objects include in each case indications about a key server from which the encrypted first key can be obtained (figures 2-5 and associated text).

As per claim 9, Downs further discloses the method of claim 8, wherein a key obtaining module of the respective communications terminal automatically requests, receives and stores the encrypted first key in each case from the key server (figure 12 and associated text).

As per claim 10, Downs further discloses the method of claims 1 to 9, wherein the media objects include in each case indications concerning the media content of the media object, for example price information, title indications, playing duration or a sample playback (columns 48-49).

As per claim 11, Downs further discloses the method of claims 1 to 10, wherein as payment for the playback of the media content of the media object a monetary amount assigned to this media object is debited against a prepaid monetary amount stored on a chip card of the respective communications terminal (columns 75-76).

As per claim 12, Downs further discloses the method of claims 1 to 11, wherein the number of playbacks of said media content of the media object is counted in the respective communication terminal and this number is transmitted to a license server (columns 59-60).

Claims 13-22 are directed to a device or terminal of the above claimed method and are therefore rejected on the same grounds (see above).

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely

Art Unit: 3621

representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email: bradley.bayat@uspto.gov. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300 - Official communications; including After Final responses.

(571) 273-6704 - Informal/Draft communications to the examiner.



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